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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,353	07/18/2003	Tae-Won Kang	P23973	2573

7055 7590 07/21/2006

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EXAMINER

HANLEY, SUSAN MARIE

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/621,353	KANG ET AL.	
	Examiner	Art Unit	
	Susan Hanley	1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 1 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of (1) a methacrylic adsorbent corresponding to DIAION HP2MG and (2) a porous type cation exchange resin corresponding to TRILITE SPC 400LH in the reply filed on 4/17/06 is acknowledged. The traversal is on the ground(s) that the search of one specie would sufficiently overlap the search of any other specie such that there would be no undue burden of search.

The specie elections are withdrawn in light of the finding that the specie and generic claims would be allowable if Applicant's response overcomes the following rejections.

Claims 1-11 are presented for examination.

Specification

The use of the trademarks, DIAION SP207, DIAION SP700, DIAION SP825, DIAION SP850, DIAION HP2MG, AMBERLITE XAD 4, AMBERLITE XAD 7, AMBERLITE XAD 1600T, AMBERSORB 563, AMBERSORB 572, AMBERSORB 600, Lewatit VP OC 1064, Lewatit VP OC 1066 and Lewatit EP 63, DIAION SK1B, DIAION PK216, DIAION CR11, DIAION CR20, DIAION UBK555 (Mitsubishi Chemical), TRILITE SPC 160H, TRILITE SPC 180H, TRILITE SPC 400LH, AMBERLITE 200C Na, AMBERLITE CG50, AMBERLITE CR1310 Na, AMBERJET 200H, AMBERLYST 131 WET, AMBERLYST 232 WET, Lewatit VP OC 1800, Lewatit VP OC 1812, Lewatit MDS1368 Na, Lewatit K1221, PUROLITE PCR833CA, PUROLITE C145, MFG 210 and MFG 250, SK-GEL ODS S15/30, Flash KP-C18-HS, DAISOGEL 3001A, and DMS DM 1020 has been noted in this application. They should be capitalized wherever it appears *and be accompanied by the generic terminology.*

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

Claims 1 and 9 are objected to because of the following informalities: In claim 1, the terminology "reverse phased" is incorrect. It is suggested that it be changed to "reversed phase". In claim 9, "reversed" is incorrectly spelled ("revered"). Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected because it is confusing. (a) The preamble of the claim is directed to a method of purifying teicoplanin A₂ but there is no mention of this substance in the actual steps of the claim. Hence, it is unclear what is being purified. It is suggested that step (i) be amended to include a fermentation broth that comprises teicoplanin A₂. (b) the "primary purification solution" lacks antecedent basis in part (i). Part (i) does not recite that such a solution is formed. (c) The "secondary pre-purification solution" lacks antecedent basis in part (ii). Part (ii) does not recite that such a solution is formed. (d) The use of the terms primary pre-purification, secondary pre-purification and final purification step is confusing. Every step of the method purifies the substance. Hence, it is unnecessary to make these distinctions. (e) Each step lacks language that indicates that a physical action takes place. It is suggested, for example that part (i) be changed to include language such as "subjecting a filtrate comprising teicoplanin A₂ to chromatography on a synthetic absorbent". For example, it is suggested in part (iv) be changed to "converting the solution containing teicoplanin A₂ from step iii to a powder".

Claims 3, 6 and 10 contain the following trademarks/trade names: claim 3 recites DIAION SP207, DIAION SP700, DIAION SP825, DIAION SP850, DIAION HP2MG, AMBERLITE XAD 4, AMBERLITE

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XAD 7, AMBERLITE XAD 1600T, AMBERSORB 563, AMBERSORB 572, AMBERSORB 600, Lewatit VP OC 1064, Lewatit VP OC 1066 and Lewatit EP 63; claim 6 recites DIAION SK1B, DIAION PK216, DIAION CR11, DIAION CR20, DIAION UBK555 (Mitsubishi Chemical), TRILITE SPC 160H, TRILITE SPC 180H, TRILITE SPC 400LH, AMBERLITE 200C Na, AMBERLITE CG50, AMBERLITE CR1310 Na, AMBERJET 200H, AMBERLYST 131 WET, AMBERLYST 232 WET, Lewatit VP OC 1800, Lewatit VP OC 1812, Lewatit MDS1368 Na, Lewatit K1221, PUROLITE PCR833CA, PUROLITE C145, MFG 210 and MFG 250; and claim 10 recites SK-GEL ODS S15/30, Flash KP-C18-HS, DAISOGEL 3001A, and DMS DM 1020. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademarks/trade names are used to identify/describe synthetic adsorbents (claim 3), a cation exchange resin, a catalytic resin or chelate resin (claim 6), or a reverse phase resin (claim 10) and, accordingly, the identification/description is indefinite.

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

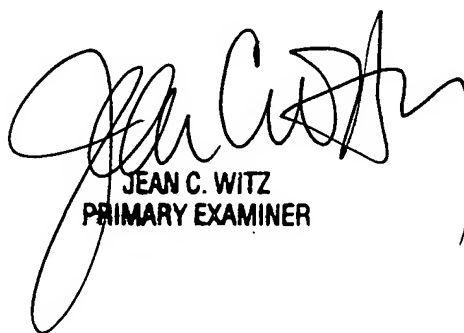
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Hanley whose telephone number is 571-272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Hanley
Patent Examiner
1651



JEAN C. WITZ
PRIMARY EXAMINER